

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

February 2, 2021

1:31 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Shelley Hughes, Vice Chair
Senator Mia Costello
Senator Lora Reinbold
Senator Tom Begich

MEMBERS ABSENT

All members present

OTHER LEGISLATORS PRESENT

Senator Peter Micciche

COMMITTEE CALENDAR

SENATE BILL NO. 56

"An Act extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: occupational and professional licensing, practice, and billing; telehealth; fingerprinting requirements for health care providers; charitable gaming and online ticket sales; access to federal stabilization funds; wills; unfair or deceptive trade practices; and meetings of shareholders; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 56

SHORT TITLE: EXTENDING COVID 19 DISASTER EMERGENCY

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/25/21 (S) READ THE FIRST TIME - REFERRALS

01/25/21 (S) HSS, L&C, FIN
02/02/21 (S) HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

ADAM CRUM, Commissioner
Department of Health and Social Services (DHSS)
Anchorage, Alaska

POSITION STATEMENT: Presented SB 56 on behalf of the administration, Senate Rules Committee sponsor by request.

SARA CHAMBERS, Director
Division of Corporations, Business, and Professional Licensing
Department of Commerce, Community and Economic Development
Juneau, Alaska

POSITION STATEMENT: Answered questions about licensing.

LISA PURINTON, Bureau Chief
Department of Public Safety
Anchorage, Alaska

POSITION STATEMENT: Answered questions about background checks during the hearing on SB 56.

SUSAN POLLARD, Chief Assistant Attorney General
Department of Law
Juneau, Alaska

POSITION STATEMENT: Answered questions about SB 56.

NEIL STEININGER, Director
Office of Management and Budget
Juneau, Alaska

POSITION STATEMENT: Answered questions about CARES expenditures during the hearing on SB 56.

ACTION NARRATIVE

1:31:07 PM

CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:31 p.m. Present at the call to order were Senators Begich, Costello, Hughes, Reinbold, and Chair Wilson.

1:32:00 PM

CHAIR WILSON announced that the first order of business is to elect a vice chair.

SENATOR COSTELLO moved and asked for unanimous consent that Senator Hughes be elected vice chair.

CHAIR WILSON found no objection and Senator Hughes was elected vice chair.

SB 56-EXTENDING COVID 19 DISASTER EMERGENCY

[1:33:21 PM](#)

CHAIR WILSON announced the consideration of SB 56, Senate Bill NO. 56 "An Act extending the January 15, 2021, governor's declaration of a public health disaster emergency in response to the novel coronavirus disease (COVID-19) pandemic; providing for a financing plan; making temporary changes to state law in response to the COVID-19 outbreak in the following areas: occupational and professional licensing, practice, and billing; telehealth; fingerprinting requirements for health care providers; charitable gaming and online ticket sales; access to federal stabilization funds; wills; unfair or deceptive trade practices; and meetings of shareholders; and providing for an effective date."

CHAIR WILSON pointed out that the committee has new material, including a new, indeterminate fiscal note from the Department of Revenue. He called Commissioner Adam Crum to the table.

[1:34:42 PM](#)

ADAM CRUM, Commissioner, Department of Health and Social Services (DHSS), Anchorage, Alaska, noted that Heidi Hedberg, Director of the Division of Public Health, Bryan Fisher, incident commander for the state with the Department of Military and Veterans Affairs, and Dr. Zink, DHSS Chief Medical Officer, would be available online for questions. The commissioner planned to do a high-level sectional analysis of SB 56 while Mr. Fisher would provide an overview of AS 26.23, the Alaska Disaster Act. Then the commissioner planned to do a high-level walkthrough of the public health emergency, the disaster declaration timeline, and major components of the Alaska response. Heidi Hedberg will discuss the authority under AS 26.23.020 and how the authorities were used in the state response and why these authorities are needed for an extended disaster declaration as proposed by SB 56. The commissioner added that representatives from the Department of Commerce, Community and Economic Development, the Office of Management and Budget, Department of Public Safety, the Department of Revenue, and the Department of Law were online to answer questions about

particular sections of the bill that impact their respective departments and programs.

COMMISSIONER CRUM stated that Section 1, the Findings Sections, establishes the chronology of SARS-CoV-2, the virus that lead to COVID-19, and the state of Alaska's response to the imminent threat and the outbreak of COVID-19 in Alaska. It includes a description of federal agency actions in approving emergency use authorizations (EUA) for the immediate nationwide distribution of a COVID-19 vaccination, which occurred on December 11, 2020, and the need for statewide response under AS 18.15.390 to address the public health disaster emergency and aid in vaccine distribution across the state.

COMMISSIONER CRUM said that Section 2, Extension of the January 14 Disaster Declaration to September 30, 2021, provides that the commissioner of DHSS may certify to the governor that there is no longer an outbreak of COVID-19 or credible threat. The commissioner shall submit a proclamation to the legislature that indicates that the public health disaster emergency no longer exists.

1:37:10 PM

SENATOR BEGICH stated that he objected to the governor's claimed extension of these orders as unconstitutional. Senator Begich says that none of his caucus objects to the idea of public safety being paramount. They do object to the governor asserting his authority in an inappropriate manner in this regard. Senator Begich said he is going to question this legislation on two counts. One is the whereas clauses that specifically speak to the extension of those orders, which are unconstitutional. Secondly, the extension to September 30 will be a relatively illegal extension of this order. He also wanted the commissioner to know that he supports the efforts of the department and public health and backs the medical decisions the department has made because they have ensured that Alaska is in the position it is in today, the state with the highest level of vaccinations and one of the lowest mortality rates per capita. He commends the commissioner for that, but there are constitutional issues to be considered. That will make the commissioner's job more difficult. He wants to work with him to do this in the smoothest way possible, but the constitutional issues must be addressed.

CHAIR WILSON stated that the committee will not spend time on the constitutionality of the past. That is not the purview of this hearing. The committee is hearing the extension before

them, not addressing the ones in November or December. The committee is only addressing the extension before the committee.

SENATOR BEGICH responded that as point of record, they are referred to in the legislation.

CHAIR WILSON said he understands that, but he is stating that is not the purview of the hearing today. The committee will address the extension going forth, not the ones in the past.

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SENATOR REINBOLD shared that she appreciated her colleagues' comments. She wanted to have the opportunity to discuss the constitutionality of this and of past [events]. This is the first hearing, the first opportunity the legislature has had to weigh in on one of the biggest events in the history of Alaska and Health and Social Services has been at the helm. She asked Commissioner Crum if he could define "credible threat," "disaster," and the data he is using. She thought in her committee [Judiciary] that he was using the UAA (University of Alaska Anchorage) data. The premise of what he is basing a disaster declaration on is important. She has found four important, powerful research documents that show that the data Commissioner Crum used, the Imperial College data, is significantly flawed.

COMMISSIONER CRUM replied that a credible threat has to do with the mission of DHSS, which is to protect and promote the health and wellbeing of all Alaskans. DHSS works and partners with the federal agencies the CDC (Centers for Disease Control and Prevention) and the FDA (U.S. Food and Drug Administration). DHSS follows their lead and does any specific Alaskan tweaks to policy and actions as necessary. DHSS looks at what is happening in other states and considers whether anything about Alaska's geographic position can be used to its advantage. Initial modeling did come out with outrageous numbers about where things were going and about deaths. These sources were COVID Act Now, the University of Washington, King's College in London, all across the board the data was in a similar vein. It is not just one single study at a time. DHSS looked across the board at what was happening and the context of the situation as it was occurring, both around the world and in the United States. Admittedly, those projections ended up being fatally flawed, but quite a few states actually reached their breaking points. Hospitals had issues about capacity and with Alaska having acute care beds for less than two percent of the population, DHSS wanted to make sure that it took care of that. During the

response in this very long year, Alaska has had hurricanes in Southwest and Western Alaska that has delayed people getting care and being transported out and delayed the delivery of goods for the response. Those are some of the data points that they at DHSS used when they made decisions for Alaska.

SENATOR REINBOLD pointed out that the commissioner said that the data used was fatally flawed. That is important because it agrees with her research. She noted that she had emailed that to the chair and wanted that to be part of the official hearing because as Senator Begich said, it is part of the bill. She would like part of the hearing to be about the UAA model. The first thing that must be done is to talk about why the disaster was declared in the first place. There were 18 mandates and if the declaration was based on a faulty model, it throws everything out the window. It is important to get the premise on record. She asked the chair to include the research as a courtesy.

CHAIR WILSON recognized that the senate president, Senator Micciche, was in the room.

SENATOR REINBOLD said that the commissioner had not defined "credible threat," which is important. He said DHSS is to promote the health of all Alaskans. Lots of Alaskans are suffering at an unprecedented number because of the mandates and this ongoing disaster declaration. That causes her tremendous pause. One in four children are suffering because of the lockdowns and schools being shut down. Her heart goes out to them and the parents who are suffering. If he is looking out for the health of Alaskans, this is not the way to do it. The health and wellbeing economically must be looked at holistically. She still needs "credible threat" defined. In terms of geography, which he just mentioned, London is dense and Alaska is widespread, which is another reason why the models were flawed. She wanted to see that data about acute hospital beds. She asked the chair whether they could see the data the disaster declaration extensions were based upon. She has been requesting that information for quite some time.

CHAIR WILSON answered that some of that will be in the presentation.

[1:45:33 PM](#)

SENATOR COSTELLO stated that she cannot support extending the disaster declaration until the end of September. It sends the wrong message to suffering Alaskans that things will not change

and the state will be in a lockdown. She asked why the administration did not consider just extending every 30 days. She is anticipating that his answer will align with what she read in the [committee] material, that the administration wants the disaster declaration to align with the federal budget cycle. The state's budget cycle has never been aligned with the federal budget cycle. It has never prevented Alaska from receiving federal funds. The state is interested in receiving federal funds to help suffering Alaska families; however, she cannot support an extension well until September of this year. She asked the commissioner why the administration did not consider extending the declaration for 30 days.

COMMISSIONER CRUM asked whether Senator Costello meant an extension by the legislature or the governor.

SENATOR COSTELLO replied that he could answer to both.

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COMMISSIONER CRUM explained that if the legislature is in session or meeting, it is up to the legislature to make the extension. The date of September 30 is because the federal public health emergency comes from the Department of Health and Human Services in 90-day sections at a time. If an extension enters into a quarter of the year, the benefits of that public health emergency go to the end of the quarter. For example, the prior enhanced FMAP (Federal Medical Assistance Percentage) of 6.2 percent to the Medicaid program was supposed to end January 20, but because it went into January, the state would receive the benefits until the end of this quarter. That is one reason why. Secretary Azar put forth an extension on January 24 for 90 days. They look to President Biden to not allow the public health emergency to expire in his first 100 days. Knowing that there will be at least one more extension from President Biden's-appointed Health and Human Services Secretary, September 30 was chosen because much of the flexibility from Health and Human Services has a lot to do with the delivery of healthcare systems. That flexibility is tied to the federal public health emergency. The date was not necessarily about federal funding. It about the flexibility to respond and how the state can use that flexibility through waiver and suspension of regulation and statute.

SENATOR COSTELLO responded that she understood the desire to be flexible and malleable, but to take an entire legislative branch, the people's branch, and to essentially take the legislature out of the equation is problematic. The legislature

is planning on being responsive to the needs of Alaskans and the federal funding, and she doesn't see that there would be any problem with getting the legislature to extend if that were needed. Again, the date of September 30, 2021, is highly problematic for her and her constituents. She would like to work with the committee and DHSS on finding something that is more palatable.

COMMISSIONER CRUM added that one more item is that after submitting the bill, DHSS did receive a letter from the Acting Health and Human Services Secretary who said that it is the intention of the Biden administration to continue the public health emergency at least through the end of calendar year 2021.

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SENATOR HUGHES shared that she appreciates and shares the concerns of the committee expressed so far. She is interested in hearing the case the administration will present. She appreciated Commissioner Crum willingness to be in the hot seat. She is concerned about the legislative branch having the ability to end a disaster declaration. She does not think that is in the bill. If it is the will of the committee to move the bill out, if it is the will of the senate to pass this on the floor, they should consider adding the ability of the legislature to end the emergency declaration at any point. She asked whether, in order for a state to receive the FMAP of 6.2 percent related to the pandemic if President Biden extends the public emergency, the state has to have an existing emergency declaration in place to receive enhancement.

COMMISSIONER CRUM answered no.

SENATOR REINBOLD said that she had not heard "credible threat" or "disaster" defined. The legislature has the power of the purse. She wants to know how much the department has been redistributing but first she wants the definitions because a lot of people think the disaster was declared based on faulty information. Some of the mandates that have the names of the commissioner, the governor, and Dr. Zink all over them are creating a catastrophe, economically and constitutionally. She felt completely sidelined by the administration. The DHSS budget is huge and she wants to know how much additional funding it has received.

COMMISSIONER CRUM replied that Incident Commander Bryan Fisher will go over the entire Alaska Disaster Act and what that means in Alaska.

SENATOR REINBOLD said she was asking for the definitions of "credible threat" and "disaster." She asked for a yes or a no about whether she could get complete information that the disaster was declared on based on hospital capacity.

CHAIR WILSON responded that Commissioner Crum is saying that the incident commander can give that information and define that for the committee. The committee needed to move on because the administration needed to present and then allow time for questions.

COMMISSIONER CRUM explained that the next section will have an entire overview of the Disaster Act, which gives the definition of "disaster" in Alaska. As far as "credible threat," that goes with the information and context available at the time. He would be happy to put a response in writing for the committee on that.

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COMMISSIONER CRUM said Section 3, Finance Plan, establishes the finance plan for the disaster declaration. The components are the same appropriations that were made in 2020 in support of the March 11 disaster declaration that was extended to November 15, the expenditure of CARES (Coronavirus Aid, Relief, and Economic Security) Act receipts ratified by the legislature, and any future appropriations that may be made for FY 21 or FY 22. In addition, the governor may not expend more than \$10 million from the disaster relief fund for the emergency declared on January 15 and extended to September 30, 2021.

COMMISSIONER CRUM explained that Section 4, Report to the Legislature, requires that the Office of Management and Budget (OMB) submit a monthly report to the Legislative Finance Division that lists the total expenditures incurred by the state in its response to the public health emergency disaster, including expenditures aimed at mitigating, preventing, and controlling COVID-19. The report will include cumulative expenses incurred since March 11, 2020, the date the governor issued an initial declaration of a public health disaster. This section further provides for a final report due to the Legislative Finance Division no later than November 30, 2021, or 60 days after the governor determines the public health disaster emergency no longer exists, whichever is earlier.

SENATOR REINBOLD said, "First of all, it sounds like any of us can read the Disaster Act. I mean, we understand that. But it sounds like a lot of people do not believe there is an emergency

right now. And it sounds like, one, you cannot define the emergency. It sounds like you cannot define the disaster, so are going to have fill in the blanks in there and you cannot define imminent threat, so, what my question to you is, in regard to the disaster, it's coming up on a year, one full year, when the statutes say 30 days. How can you justify extending this? If you're to look out for the health and wellbeing of all Alaskans, and this is causing tremendous harm, as you know, I just want straight up, how can you justify extending this, knowing how many people, how many businesses are suffering, how many children are suffering? How many rights are being violated? How can you justify this?"

CHAIR WILSON said there is going to be a section in the presentation to explain to the general public some of the differences in Title 21 vs. the gubernatorial mandate from the administration vs. local mandates. There is huge confusion that one does not need to happen without the other.

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SENATOR REINBOLD asked the commissioner if he is clearly able to define "credible threat," clearly define the disaster, clearly justify the extension of the disaster, and can she, yes or no, get all the data of the disaster based on hospital beds.

CHAIR WILSON suggested that data is broad term, so that could be narrowed and put to the department in writing.

SENATOR REINBOLD replied that it had been given multiple times.

CHAIR WILSON pointed out that hospital capacity is on the data dashboard. He believed the commissioner answered the other questions on the disaster and credible threat.

SENATOR REINBOLD asked if the answer is she cannot get the hospital data. She has been asking and emailing [to get information].

CHAIR WILSON repeated that the hospital capacity is on the DHSS dashboard and the department is indicating that it can provide that information to the committee.

SENATOR REINBOLD said, "They changed some of the parameters and I've been trying to drill down and get the information." She has been trying to get the information for months and this may be her only opportunity. "The people deserve to know why this

disaster was declared in December based on hospital beds and their whole lives are being transformed," she said.

CHAIR WILSON replied that the committee is not going into the premise of the disaster declaration. The committee is going to address the bill that is in front of them. He had said earlier that the committee is not going into the past. The committee will address the bill in front of them. "It was stated earlier that the legislature had the ability to meet and the legislature did not. We failed to act positively. We failed to act negatively, to vote this up or down. My intent is to get this in front of the legislative body so they can make a decision to vote in the affirmative or to vote in the negative. That is the intent the chair has. My intent is trying to get this through so we can make a decision one way or the other as a legislative body."

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SENATOR HUGHES said she knows the committee is not revisiting the past, it is looking forward as far as what SB 56 means for Alaska now and in the coming year. She said she spoke to the commissioner about wanting to know the data that would be the basis for ending the disaster declaration. That should not be a feeling that things have settled down. The legislators should know what would be the point at which the declaration would be repealed or stopped. And in reference to that, they would need to know where the state is now. She asked what the state's targets are. Perhaps the administration would present that to the committee, but she wants that on the record. Although they are not revisiting the past, they need that information for their decision-making going forward.

CHAIR WILSON replied that is germane as Section 4 is about the end date of the disaster.

SENATOR REINBOLD said to echo Senator Begich and Senator Hughes, if they are not looking back, they can't look at this bill because it contains dates from the past.

CHAIR WILSON responded that in terms of the bill's finance plan, that is referenced as it was simpler and saves on paper. Those items could be printed to give to committee members. He thought this was a simpler method of documenting that instead of increasing the size of the bill.

SENATOR REINBOLD replied that the bill talks about the diagnoses on March 12. It has nothing to do with the financial plan. Line

23 on page 2 talks about the number of cases. This is all germane and they are talking about the past. This has nothing to do with the fiscal notes or the financial plan. It is in the bill itself.

CHAIR WILSON said the committee had to allow the commissioner and staff the opportunity to present and other people were available for testimony to add to the conversation.

COMMISSIONER CRUM said that with Section 5, professional licensing is administered by the director of the Division of Corporations, Business, and Professional Licensing. The items in this section are the state cannot increase licensing fees during the public health disaster emergency declaration, and licenses, permits, and certificates can be granted on an expedited basis if an individual holds a corresponding license or permit in good standing in another jurisdiction. This is an expedited means of getting healthcare workers to the state in the event of a surge. The state may temporarily modify or waive continuing education requirements for licensees who need to renew. The state can require individuals who receive a license, permit, or certificate to arrange and agree to supervision by an individual who holds one. This was an item the legislature put forward to allow students, such as nursing students, to start providing healthcare. This section also provides that a licensed professional seeking or holding an expedited license, permit, or certificate under this section who travels to Alaska from outside of Alaska must comply with the travel restrictions orders or guidelines recommended by the CDC.

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SENATOR BEGICH asked if the number of people receiving temporary licenses will be part of the report.

COMMISSIONER CRUM answered yes.

SENATOR BEGICH continued that his only question with this section is whether DHSS has examined the implications of the temporary certification. For example, if a nurse practitioner has an emergency license that is not based on the normal training, postdisaster declaration, will that person be qualified based on the emergency license. He asked if that person gets to leap over those taking the normal coursework. He wants to know the unintended consequences. He also asked if any analysis has been done to know whether this has impacted the Alaska healthcare workforce.

COMMISSIONER CRUM replied that for the second half of the question, it will be a supplement. Those individuals will still have to operate under their professional boards. He will direct the first half of the question to Sara Chambers, who is online.

SENATOR BEGICH clarified that he was concerned about professional qualifications necessary for for a field being missed because of this extended disaster declaration that could create a false sense of experience that may not be relevant to the educational experience a person would normally need for certification.

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SARA CHAMBERS, Director, Division of Corporations, Business, and Professional Licensing, Department of Commerce, Community and Economic Development (DCCED), Juneau, Alaska, explained that the greatest need for the emergency courtesy licensing is for unusual circumstances that have arisen because of COVID. When rural areas have been hit hard, particularly in areas where commercial activity such as mining or commercial fishing is taking place and there is not a strong workforce to meet the needs of all COVID patients and mitigation efforts, the division has been able to use courtesy licensing to bring people up who would otherwise not be going to work in an Anchorage hospital, for example. The division has seen a few unusual circumstances like that where the Alaska workforce could not meet the need. These are board decisions, and the division has worked with various boards to set up siderails so that the courtesy licenses do not supplant a regular license. Someone who works in a hospital performing regular duties needs a regular license. There is an end date to those licenses. It depends on the particular board, but the boards are conscientious about putting up siderails to make sure this did not create property rights for someone to "leap over" someone else who might need to meet higher standards in order to permanently practice under a full license.

SENATOR BEGICH responded that that answers his question. Another point regarding the chair's statement about the legislature coming together as a body is that it is not just the legislators' responsibility. The governor also has the power to bring the legislature together, should he desire to do so.

SENATOR REINBOLD asked the Ms. Chambers if licensing with special accommodations during this challenging time could be done through another bill without extending the disaster declaration. Senator Kawasaki took the lead with bills for the

military and military wives. It sounds like the department wants federal funds, and there are alternatives for that. She asked if the division has to have the disaster extended.

MS. CHAMBERS answered that most boards lean on the declaration of a disaster or a public emergency to be able to issue those courtesy licenses. That is one of the siderails. It depends on the license type, but there needs to be a finding of an emergency in order for the boards to authorize those courtesy licensing.

SENATOR REINBOLD summarized that Ms. Chambers is saying that she has to have a disaster declaration and an emergency in place, to do this. It cannot be done with other legislation.

MS. CHAMBERS replied that it could be done with other means, and this is the vehicle in front of the legislature now. Other ways could be looked at for an emergency to be declared. She'd be happy to explore that, but the vehicle in front of them now is an opportunity to continue what the legislature did last year that helps economic development and delivers healthcare services to people in a short amount of time.

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SENATOR REINBOLD reiterated that Ms. Chambers is telling the committee that she has to have an emergency to make special accommodations. Regarding economic development, a lot of people are in economic crisis now. Businesses are going out. The situation must be looked at holistically. Senator Reinbold has never seen so many people and businesses suffering. She was raised in Anchorage and it is almost unrecognizable. When Ms. Chambers is talking about economic growth, declaring an emergency is not the best way to do it. Senator Reinbold will hold Ms. Chambers to her word that she cannot do this unless she is in an emergency.

SENATOR HUGHES pointed out that ordinances at the municipal level are separate from what the committee is dealing with. She does feel for those in the municipality of Anchorage. Part of her district is in the municipality. Part of it is in Mat-Su, and Mat-Su has not suffered in the same way. Some of the things at the home rule level has made it worse for Alaskans. The legislature could pass a bill that has nothing to do with an emergency disaster that would have the same provisions. The legislature could do it for telehealth, for fingerprinting, for shareholder meetings, for charitable gaming. Any of these changes could be made by the legislature. Her understanding is,

and the Department of Law could correct her, is that the legislature could make any of these changes without the declaration. Senator Costello brought up her discomfort about going as late as September. If the legislature is not at the level of worrying about hospital capacity but wants people to readily access health care services, the legislature could provide the telehealth provisions suggested in this bill even if a disaster declaration is not in place. If she is wrong about that, she asked the commissioner to let her know.

MS. CHAMBERS said that to address Senator Reinbold's comments, there are other vehicles to accomplish the particular carveouts relating to licensing. There are different ways for the legislature to accomplish those goals. The governor did propose some of those goals last year preCOVID in some of his bills. The legislature may see some similar types of legislature coming forward. The division would be interested in speaking to members of the legislature about some of those goals, which did predate COVID. She wanted to clarify that there are other means for licensing to be taken up by the legislature if it is will of the legislature to move those forward this session. She can't speak to other areas that would require a particular type of emergency declaration that, as Senator Reinbold pointed out, may speak to federal funding opportunities. That is separate from licensing. Altogether, this vehicle is a useful tool to serve Alaska during this time, but she wanted to be clear that the licensing aspects could be utilized outside of this legislation, as the governor suggested preCOVID last year.

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COMMISSIONER CRUM described Section Six, Telehealth, as allowing for the healthcare provider licensed, permitted, certified in another jurisdiction to practice telehealth in Alaska without first conducting an in-person physical examination or being licensed in Alaska. The telehealth services provided must be within a provider's authorized scope of practice. If the providers determines that the encounter will extend beyond the scope of practice or services, providers must notify their patients and recommend the patients contact a healthcare provider licensed in Alaska. The healthcare provider cannot charge unreasonable fees and the fees must be consistent with the ordinary fees charged for that service and may not be more than five percent above the ordinary fees typically charged.

SENATOR COSTELLO shared that in the material provided, this would allow the commissioner to waive any state law or regulation related to telehealth or telemedicine if compliance

would substantially prevent or impede healthcare services. It goes on to say that the department anticipates that there could be additional costs incurred due to the unknowns of COVID if the federal and state disaster declarations do not terminate at the same time, which the commissioner has established as September 30. Her office contacted Legislative Research and received information that says that research has been reviewing executive orders from states to determine if any have extended disaster declarations related to COVID-19 through September 30, 2021, in the manner of SB 56. Legislative Research has not located any instances of such an extension having been affirmed by a state legislature. It goes on to say that in many other states governors have the authority to extend the declaration by 30, 45, or 60 days, which Alaska does. She asked if the commissioner could give an example of a telehealth law or regulation that actually impedes healthcare services because when she voted on that legislation, it was her understanding that the state was expanding options for Alaska via telehealth and telemedicine. She is confused about how telehealth could prevent or impede healthcare services.

COMMISSIONER CRUM replied that this specifically addresses, under this disaster declaration extension, healthcare providers licensed outside of the jurisdiction of Alaska. Typical rules and regulations inside of Alaska state that providers must be licensed inside the state and if not, the provider must first have an in-person visit. That has been waived throughout this. This is the flexibility that CMS, the Centers for Medicare and Medicaid Services, has allowed through the federal public health emergency. In order to meet that flexibility, Alaska has to waive this provision.

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SENATOR COSTELLO asked the commissioner whether, when the legislature had exhaustive hearings on telemedicine, the legislature missed the mark because they didn't allow that for that flexibility at that time.

COMMISSIONER CRUM responded no, these are exigent circumstances, the inability of travel, of the disaster. Also, unnecessary in-person visits are not wanted for individuals who can take advantage of telehealth. The state does not want to lose the ability to have out-of-state providers. Typically, in the past, they would rotate up to Alaska, have in-person clinics, and then have a patient. Normally the department wants to protect the Alaska-licensed providers. This is not something the legislature could have contemplated at the time.

CHAIR WILSON asked Ms. Chambers to also provide some information. She was in front of the committee last year for the nurse-compacting agreement and explained that providers must be licensed in the states they are practicing in, so a telemedicine provider in Texas must be licensed in Alaska to take a phone call in Texas.

SENATOR COSTELLO noted that the commissioner is stating that an extension of the disaster is needed in order to address this issue.

COMMISSIONER CRUM agreed and said the department put this forward to meet those federal flexibilities.

SENATOR COSTELLO asked if it had to be in this legislation.

COMMISSIONER CRUM responded that it is up to the legislature. For the timeline to meet the one that expires on February 14, this is the most expedited vehicle to do so.

[2:21:16 PM](#)

SENATOR HUGHES asked whether, with telehealth, just like with professional licensing, fingerprinting, shareholder meetings, charitable gaming, the legislature could make decisions, either temporarily or permanently, whether or not there is a disaster declaration.

COMMISSIONER CRUM answered that he will not speak as to what the legislature can or cannot do, but he would believe so.

CHAIR WILSON added that he understands that some of the professional licensing boards have the regulatory process. He asked if the legislature would supersede the regulatory process by creating statute or if the best means is having the emergency disaster declaration so those regulations could be waived without the need for the regulatory process.

MS. CHAMBERS replied that the section on telehealth and telemedicine in the bill has allowed, as it was previously iterated in SB 231 and is reiterated here, boards and the division the opportunity to allow telehealth to happen, which would not otherwise happen because of existing state statutes. Boards and many of the nonboarded programs do not have the authority to allow people to practice telehealth on an Alaskan in the state of Alaska because state law does not permit it. It would require a statutory change or a suspension of those

statutes as proposed in the bill to enable this telehealth provision.

CHAIR WILSON said another professional licensing question is whether it would be better suited to change that through statute or would the regulatory process need to be changed as well. Obviously, that goes through the Department of Law and the lieutenant governor's office.

MS. CHAMBERS explained that the licensing provisions that are being requested in the bill are because they require statutory changes. The boards have done all that they can through the regulatory process. These are some of the remaining areas that require legislative action in order to provide the flexibility that healthcare facilities and patients in Alaska have needed during the pandemic. These require changes in state law.

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SENATOR BEGICH said as a point of clarification, with SB 241, the legislature adjusted it and added a number of provisions. The legislature has the ability to change this bill in any way it wishes. If the legislature wanted to make a permanent change with an item in the bill, it can through a separate, standalone piece of legislation. In fact, his objection to the nursing compact last year was because it appeared to weaken the standards for nursing qualifications. To Senator Hughes through the chair, the answer to her question is yes, the legislature has the power to do all those things and yes, the legislature is going to adjust this bill. The comments of Senator Reinbold and Senator Costello speak to that. The legislature will adjust this bill through the process and do it collaboratively. The legislature has the power at any given to make these changes permanent, if they so wish.

SENATOR REINBOLD shared that she wanted to refer to SB 241. She talked to Legislative Research yesterday and they told her it was only referred to Rules. She thought the hearing where she heard it for the first time was roughly between midnight and 2 a.m. That was the first time she heard it because it was only referred to Rules. She said to correct her if she was wrong.

SENATOR BEGICH responded that it was extensively debated in the Finance Committees in both bodies. It was debated in Finance and Rules. It was extensively debated in Rules because the minority had a number of provisions they hoped to add. It was in more than one committee. He was only able to comment on it because he sat on the Rules Committee.

SENATOR REINBOLD stated that she potentially received misinformation yesterday. She remembered watching it around midnight to 2 a.m. and then it went directly to the floor. It caught a lot of legislators who were not in Finance or Rules off guard.

SENATOR BEGICH clarified that it was the Conference Committee.

SENATOR REINBOLD said correct, the Free Conference Committee. It came in roughly between midnight and 2 a.m. and went directly to the floor. The legislature didn't know what COVID was, the governor was throwing all these travel mandates down. Legislators didn't know if they would be stuck in [Juneau]. After a tremendous number of amendments, it was thrown out. It was not a well-vetted bill. Many people have serious remorse about that. She asked about just reading an email that all amendments [for SB 56] are due tomorrow. This is the first hearing, the first time hearing the bill, all amendments are due tomorrow, and the committee is just getting a basic grasp of the bill. She asked the chair if 5 p.m. tomorrow is the cutoff date for submitting amendments.

CHAIR WILSON answered that his office still working through that. Obviously the committee is not through the presentation so that deadline will probably be extended. His intent was to get through the first presentation of the sectional today, so the deadline will probably be moved. "Let's see what we can do to get through and then we'll have a new date and time," he said.

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SENATOR REINBOLD said that Section 6 is a concern for her because she worked on the telehealth bill. Sidelines were put in that bill to protect Alaskan physicians because it is so valuable to see someone person-to-person, get to know them, rather than just an informal meeting online. The quality of healthcare often goes much higher when someone is able to meet with a physician face-to-face. She asked how this bill is changed from the telehealth bill and asked the commissioner to describe Section 6 in layman's terms.

COMMISSIONER CRUM answered that this section allows individuals to get telehealth without first having an in-person visit because of how the virus spreads. This allows the vulnerable population who want to stay to home protect themselves to get access to medical care without an in-person appointment.

SENATOR REINBOLD said that is exactly what she was hoping the commissioner would say about page 7, line 22. She understands social distancing, but she loved that the bill required the first visit be in-person. Having worked in a medical clinic and office, she knows how valuable that is. That raises a red flag. That causes her pause with herd immunity possibly being reached, along with mitigation measures, and American doctors having dealt with so many patients and having such remarkable outcomes. This bill does talk about diagnosing, prescribing, dispensing, and administering prescriptions, excluding controlled substances. She asked if ivermectin, hydroxychloroquine, zinc, vitamin D were part of the disaster plan and have they been completely and readily available for physicians or were there any restrictions on those agents, including with supply chains in Alaska.

COMMISSIONER CRUM replied DHSS talks weekly about available treatments and therapeutics. As therapeutics get approved by the FDA, they come into the state or directly to hospitals. DHSS works to make sure they know how to administer them. As far as other items, if they are commercially available and doctors wants to give that to their patients, as long as it is in the scope of their license, the state does not restrict that.

SENATOR REINBOLD asked if ivermectin and hydroxychloroquine have been available and have they been part of the DHSS disaster. People have been asking her to make sure she gets this on the record.

COMMISSIONER CRUM replied that doctors can prescribe all available commercial items to patients. DHSS does not get in the way of that. DHSS has spoken frequently about the beauty of prevention using zinc and vitamin D. Articles on the DHSS website speak of the importance of vitamin D for respiratory illnesses. The state does not restrict the use of commercially available items. If a pharmacist wants to have a conversation with a provider, that is between them. The state does not get in the way of that. DHSS deals with treatments that come from the FDA emergency use authorization process for therapeutics.

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SENATOR REINBOLD asked if the commissioner could tell her about the availability of ivermectin and hydroxychloroquine and have there been any restrictions about their use. They genuinely save lives.

COMMISSIONER CRUM replied that those are not items that came through the FDA emergency use authorization process, so his department has nothing to do with that. He does not know if they are commercially available. He is not a provider. If a provider wishes to find those and prescribe those to patients, the provider can.

SENATOR REINBOLD said it sounds like ivermectin or hydroxychloroquine has not been part of the disaster plan.

COMMISSIONER CRUM said that Section 7, Fingerprinting, provides that DCCED shall coordinate with DHSS and Public Safety to expedite the process for submitting fingerprints for certain license applicants. This coincides with professional licensing in Section 5.

SENATOR COSTELLO pointed out that the bill mandates coordination among three departments to expedite the fingerprinting. She asked if that needed to be in legislation.

COMMISSIONER CRUM noted that a representative from Public Safety was online.

SENATOR COSTELLO clarified that the bill mandates coordination among three departments. She understood the value of expediting fingerprinting but asked why it has to be mandated in state statute, couldn't it just be made more efficient.

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LISA PURINTON, Bureau Chief, Department of Public Safety, Anchorage, Alaska, replied that her understanding is that there is an allowance for processing name-based background checks and to delay the submission of fingerprints when there is an emergency situation at the state level. The Department of Public Safety has requested to allow these exigent circumstances to permit processing of name-based checks without the submission of fingerprints right away with the understanding that those fingerprints will become available within 180 days of the end of the emergency declaration. The agency can submit the fingerprints sooner than the 180 day mark if they become available to meet the federal requirement for submitting fingerprints for noncriminal justice purposes. That would be one of the reasons for the requirement.

SENATOR COSTELLO responded that prior to Ms. Purinton's answer she assumed the protections for Alaskans and the standards would remain the same and just the processing would be expedited, but

Ms. Purinton is saying there will be a different process that is simply name based and the rest of the process would happen within 180 days. She asked if there are any detrimental impacts to the safety of Alaskans with name-based checks.

MS. PURINTON answered that she could not speak to that. The department does not have statistics on it. The criminal history records would be searched based on a person's demographic information. It would be just absent the fingerprint submissions, which would be submitted later. The Department of Public Safety would still do the fingerprint-based checks; it just wouldn't happen immediately. The Department of Public Safety does process fingerprint cards for various applicant purposes as expeditiously as possible. The regular timeframe for running records for DCCED licenses in 2020 was 4.8 days.

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SENATOR HUGHES clarified that the name-based check is not allowable under current statute. Public Safety must have Section 7 for name-based checks to move forward.

MS. PURINTON answered that she did not know if the exigent circumstances were necessarily based in statute. The request was made to the compact council, the governing body that oversees all noncriminal applicant background check processes through various state and national databases. The exigent circumstances were permitted due to the emergency disaster declaration from the state.

COMMISSIONER CRUM said that Section 8, Meeting of Shareholders; Notice of Shareholder Meetings, is another section under Commerce. It allows for meetings shareholders, shareholders of Native corporations, and members of a nonprofit corporation, to be held by electronic communication, in compliance with guidelines adopted by the each of the type of entities board of directors

COMMISSIONER CRUM said that Section 9, Charitable Gaming Online Ticket Sales, has to do with the Department of Revenue. It allows certain charitable gaming activities to be conducted online during the public health disaster emergency declared by the governor on January 15, 2021, and extended by this act. Permittees and operators may sell tickets and draw the winning ticket online for a raffle or lottery, dog mushers' contest, derby, or type of classic. The seller must verify that the purchaser is of legal age to purchase, physically in Alaska, and not within an area where charitable gaming is prohibited. The

Department of Revenue is responsible for establishing the standards for the online ticket sales.

SENATOR BEGICH expressed his gratitude for this section as it did impact charitable organizations and allowed them to continue their efforts.

SENATOR REINBOLD stated that with this section, an emergency declaration was not needed. The legislature could deal with it in another bill. Senator Bishop has some great gaming ideas and he did one bill for education. She is trying to embolden the power of the legislative branch in a rightful and due place. All federal funds should come through the legislature and legislation should be coming through the legislature. She asked if it is correct that this could be dealt with very easily through another piece of legislation.

CHAIR WILSON replied that the answer is yes. Everything can be done by legislation. He has a bill on Section 8.

COMMISSIONER CRUM said that Section 10-12, Repeal of certain sections of SB 241 (SLA 2020) and sections of SB 56 on certain dates, amends Section 37, Chapter 10, SLA 2020, a technical cleaning up: repeal Section 29 of SB 241, purchase of seafood for distribution, effective March 11, 2021; repeals Section 31 of SB 241, tolling of Office of Administrative Hearings, effective March 11, 2021; and SB 241, providing a sunset date for these sections.

SENATOR HUGHES asked what is left in SB 241 that is not being repealed. There was a rent moratorium and different things like that.

COMMISSIONER CRUM deferred to the Department of Law.

CHAIR WILSON added that a later slide talks about the initial health mandates and what has expired.

[2:44:32 PM](#)

SUSAN POLLARD, Chief Assistant Attorney General, Department of Law, Juneau, Alaska, said the question is what is left of SB 241 and why is it referenced in SB 56.

SENATOR HUGHES asked if Sections 10-12 were passed, what would remain of SB 241.

MS. POLLARD answered that most of the provisions in SB 241, which was also Chapter 10, SLA, Session Law of Alaska, 2020, have already expired. However, in Section 37 of SB 241, five different provisions do not repeal until March 11, 2021. SB 56, through Sections 10 and 11, amends SB 241 to retain particular provisions that would have repealed March 11, 2021. Those are Sections 25, relating to videoconferencing for will signatures, Section 26, relating to unfair and deceptive trade practices, and Section 28, relating to access to federal education state funds.

SENATOR HUGHES asked Ms. Pollard to repeat the last statement.

MS. POLLARD said that three sections from SB 241 have been moved to SB 56, Section 11, page 10, line 9. Section 28 of Chapter 10, SLA, 2020, SB 241, says state access to federal Education Stabilization Funds under the Coronavirus Aid, Relief, and Economic Security (CARES) Act. That section can be found in SB 241 in Section 28 on page 22.

SENATOR HUGHES asked if there are education unused funds and that is one of the reasons it needs to extend beyond March.

MS. POLLARD answered that she did not know. A representative from the Office of Management and Budget may know.

SENATOR HUGHES observed that these are things the legislature could decide to keep in place on a temporary or permanent basis, regardless of whether the disaster declaration is extended.

CHAIR WILSON called Neil Steininger, Director of the Office of Management and Budget, to clarify the reference to education funding in SB 241. He asked whether the bill would need to go forth to continue to receive education funding through the CARES Act or future acts.

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NEIL STEININGER, Director, Office of Management and Budget, Juneau, Alaska, answered that in order to receive the education funding that the state received from the prior two relief packages which goes to school districts, the state needed appropriations for federal receipts. The state has used the RPL (Revised Program Legislative) process in the past. That would be available to receive additional funding in the future. It can be used for funding for any purpose and is not necessarily reliant on the disaster declaration.

SENATOR BEGICH clarified that Mr. Steininger is saying that the state doesn't need Section 28. It can be done through the RPL process.

MR. STEININGER asked for additional clarification of the question.

SENATOR BEGICH explained that in Section 11 of the current bill, line 9, page 10, Sections 25, 26, and 28, Chapter 10, SLA, the former SB 241, are repealed and give the date of the repeal. It is because the state does not need them. The state has the power to do that through the RPL process. That is what he thought he heard Mr. Steininger say.

MR. STEININGER replied yes, that is correct.

COMMISSIONER CRUM said that Section 13, Effective Date, state that if Sections 1-10 and Section 12 take effect after February 14, 2021, the sections are retroactive to February 14, 2021. Section 14 is another effective date saying that the underlying bill has an immediate effective date clause if passed.

CHAIR WILSON clarified that if the legislature decided to pass some version of SB 56, the date would be retroactive to February 14 so that there would be no gap.

COMMISSIONER CRUM answered yes.

SENATOR BEGICH asked what the governor will do if the legislature does not pass this bill and the declaration expires February 14.

COMMISSIONER CRUM responded that he cannot speak for governor's office directly. The legislation is in session and meeting, so it is up to the legislature to extend this. If that does not happen, the commissioner does not believe that another disaster declaration will occur.

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SENATOR BEGICH said that he wanted to clarify an earlier statement. He said the bill had gone to Finance first. SB 242 went to Finance first and sections of SB 242, after extensive debate, rolled into SB 241 in the Rules Committee. Legislative Research gave Senator Reinbold the correct information. The Rules Committee then had only seen SB 241. The discussion that occurred on SB 242 was rolled into SB 241. It went to the floor and was extensively debated and amended. Then it went to the

house. The house extensively amended the bill as well and sent it back to the senate. It went to Free Conference Committee and then the late night Free Conference Committee meeting occurred. He wanted to clarify that for the record. Senator Reinbold was correct and he was incorrect about the single referral.

SENATOR REINBOLD thanked Senator Begich for the clarification. She recalled it was confusing between SB 241 and SB 242.

SENATOR HUGHES said that she has two big, high-level, overarching questions. Based on what the committee learned today, extending the emergency declaration could be removed. It could just end. The legislature could put in statute that it is ending it. All the other things could be done independently. SB 56 could be the vehicle for some of those. She wants to know what the specific advantage is to the administration to extending the declaration. It is not the FMAP enhancement. The commissioner said the state could get that anyway. The telehealth, professional licensing, fingerprinting, shareholder meetings, charitable gaming could all be done regardless of the extension of the declaration. She asked what the advantage is to extending the declaration and why did the commissioner feel he needed it.

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COMMISSIONER CRUM replied that is the bulk of the rest of the presentation. First he had to introduce the bill and go over the sectional analysis. The key thing to the disaster declaration is the powers under AS 26.23 to continue the response. It has to do with rapid procurement, along with justifications, in order to do things like mass vaccination clinics. The dispensing clinics that have occurred around the state and have been so successful in keeping Alaska number one per capita in vaccinations have occurred because of the ability of DHSS to do rapid contracting with local providers and groups and for items like procurement of space. The typical government procurement process takes about three months. Without the ability to do that, the state would fall to the back of the pack in terms of vaccinations. The state wouldn't be able to distribute and use testing as rapidly in order to keep staff on with letters of agreement with unions. The whole situation with the response, all of the safety metrics in which Alaska leads, would fall. That is primarily why.

COMMISSIONER CRUM added that Senator Hughes had alluded to the system of local government in Alaska as set forth in the state constitution. Article 10, Section 1, of the Alaska Constitution requires a liberal construction be given to the powers of local

government. The constitutional provision confers on local governments a broad grant of authority. Most local governments in Alaska do not necessarily need an expressed grant of authority from the state in order to act. For example, the municipality of Anchorage can issue emergency declarations and take emergency measures because neither state law nor its charter prevents such action. A disaster act does not prohibit local governments from taking actions necessary to manage disasters within their affected communities. Accordingly, because the legislature has granted many local governments those powers "not otherwise permitted by law," these local governments have legal authority to take actions they deem necessary to address the public health disaster, provided that those actions are not prohibited as a matter of law.

SENATOR HUGHES clarified that she was hearing that the primary reason for the extension was vaccination distribution and testing. She asked if the legislature could grant DHSS the ability to expedite that absent a disaster declaration.

COMMISSIONER CRUM answered that he was not sure. It was also for the processes for the governor to waive or suspend regulations and statutes and to allocate scarce resources. Under a disaster declaration, the governor has the authority to allocate scarce resources such as food, water, and medicine. This would include therapeutics and vaccines. At this point in time the state has eligibility criteria set up to protect the most vulnerable. Without the ability to allocate that, the state couldn't do that. Anyone could get the available vaccines.

CHAIR WILSON explained that the certificate of need has to be waived to have the ability to set up alternative care sites or clinics.

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SENATOR HUGHES said that an important question that she raised earlier is, if the disaster is extended, what will be the criteria, the metrics, to end it.

COMMISSIONER CRUM replied that there are a number of metrics involved. It depends on what is going on. A primary decider is if there is enough vaccine available and distributed in the state for those willing to take it. At that point in time, when vaccine hesitancy takes over with people who don't want to take it, the tools will be there, local communities and individuals can make that choice. That is one metric that has been discussed internally. That depends on federal allocations and production

schedules. The state doesn't have a particular timeframe on what that looks like. That is a very big metric.

SENATOR HUGHES asked if DHSS would provide the information on how many vaccines it wants distributed and when the state hits that point. She asked if the commissioner would present that to legislators.

COMMISSIONER CRUM answered that he can do that.

CHAIR WILSON reminded the committee that the meeting room had to be vacated soon to allow time for sanitizing because of COVID and asked for questions that would take less than 30 seconds to answer.

SENATOR COSTELLO shared that she was reading from the state constitution at that moment about the powers of the legislative branch and the governor. It says that the legislature may terminate a disaster emergency at any time by law.

SENATOR REINBOLD said that she has several questions for the commissioner, but because vaccines are such a huge issue, she would like Chair Wilson to dedicate time for that. She wants to know things like who has liability for adverse reactions, is it the state because the state is pushing vaccines, or is it the person who administers the vaccines. This is a new type of vaccine developed in seven months when the average is about seven years. These are not FDA approved. They are only authorized for emergency use.

[3:01:25 PM](#)

CHAIR WILSON responded that the committee will have a vaccine hearing later. This bill and another have time restraints. After that, the committee will have a hearing about vaccines.

SENATOR REINBOLD said that she wanted to get these questions on record at next committee hearing. "Yes or no, do they have to sign informed consent," she asked Commissioner Crum.

CHAIR WILSON restated not on vaccine-related questions. If she wanted to submit questions about vaccines, the committee could try to get answers ahead of time.

SENATOR REINBOLD said this is huge issue. People could be dying or paralyzed. She just needs to know, yes or no, do they have to sign informed consent, and where does liability lie if there is an adverse event. That is a fair question.

CHAIR WILSON responded that it is a fair question. If she wanted to get her questions to the committee, the committee would get that to the commissioner's office, and hopefully answers could be provided in writing to the entire committee.

SENATOR REINBOLD said that it seemed that the answer was yes to having a committee on vaccines and she asked if the chair could give her a yes or no in regard to providing the model and the problems with the model, if she could officially ask that that be part [of that hearing].

CHAIR WILSON replied yes.

SENATOR REINBOLD said that at a future time she would like to ask the commissioner how much money he has in his budget or perhaps she could ask that now. She believed the total budget is around \$4 billion. She asked how much extra money DHSS has gotten since COVID.

CHAIR WILSON said that the committee will finish the conversation. This hearing will not be the end of the discussion of the emergency declaration bill. The commissioner and his office will be available for the next three weeks to present to the committee. The committee will have time to ask all those questions.

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SENATOR BEGICH pointed out that the emergency order does have an impact on legal liability for restaurants. Restaurants have done new plans for extended service. If the emergency order expires, those plans go away. There is that issue to be discussed. It is not the purview of this committee but it does relate to the question about the emergency orders.

CHAIR WILSON replied that there is a whole section in the presentation about the why that the committee did not get to. The commissioner will be ready to dive into that at the next meeting.

[Chair Wilson held SB 56 in committee.]

3:04:15 PM

There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Standing Committee at 3:04 p.m.